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10 Attorneys for Plaintiff
 11 Jose N. Avila

12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

14
 15 JOSE N. AVILA,) Case No.: 2:24-cv-00690-EJY
 16 Plaintiff,)
 17 vs.) STIPULATION AND PROPOSED
 18 FRANK BISIGNANO¹,) ORDER FOR THE AWARD AND
 19 Commissioner of Social Security,) PAYMENT OF ATTORNEY FEES
 20 Defendant.) AND EXPENSES PURSUANT TO
 21) THE EQUAL ACCESS TO JUSTICE
 22) ACT, 28 U.S.C. § 2412(d) AND
 23) COSTS PURSUANT TO 28 U.S.C. §
 24) 1920
 25)
 26)

24 ¹ Frank Bisignano became Commissioner of Social Security on May 7, 2025.
 25 Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano
 26 should be substituted for Leland Dudek as the defendant in this suit. No further
 action need be taken to continue this suit by reason of the last sentence of section
 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 TO THE HONORABLE ELAYNA J. YOUCAH, MAGISTRATE JUDGE
 2 OF THE DISTRICT COURT:

3 IT IS HEREBY STIPULATED, by and between the parties through their
 4 undersigned counsel, subject to the approval of the Court, that Jose N. Avila
 5 ("Avila") be awarded attorney fees in the amount of FORTY-EIGHT HUNDRED
 6 dollars (\$4,800.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §
 7 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents
 8 compensation for all legal services rendered on behalf of Plaintiff by counsel in
 9 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

10 After the Court issues an order for EAJA fees to Avila, the government will
 11 consider the matter of Avila's assignment of EAJA fees to Marc Kalagian. The
 12 retainer agreement containing the assignment is attached as exhibit 1. Pursuant to
 13 *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment
 14 will depend on whether the fees are subject to any offset allowed under the United
 15 States Department of the Treasury's Offset Program. After the order for EAJA fees
 16 is entered, the government will determine whether they are subject to any offset.

17 Fees shall be made payable to Avila, but if the Department of the Treasury
 18 determines that Avila does not owe a federal debt, then the government shall cause
 19 the payment of fees, expenses and costs to be made directly to Law Offices of
 20 Lawrence D. Rohlffing, Inc., CPC, pursuant to the assignment executed by Avila.²
 21 Any payments made shall be delivered to Law Offices of Lawrence D. Rohlffing,
 22 Inc., CPC. Counsel agrees that any payment of costs may be made either by
 23 electronic fund transfer (ETF) or by check.

24
 25

² The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
 26 under federal law against the recovery of EAJA fees that survives the Treasury
 Offset Program.

1 This stipulation constitutes a compromise settlement of Avila's request for
2 EAJA attorney fees, and does not constitute an admission of liability on the part of
3 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
4 constitute a complete release from, and bar to, any and all claims that Avila and/or
5 Marc Kalagian including Law Offices of Lawrence D. Rohlfing, Inc., CPC, may
6 have relating to EAJA attorney fees in connection with this action.

7 This award is without prejudice to the rights of Marc Kalagian and/or the
8 Law Offices of Lawrence D. Rohlwing, Inc., CPC, to seek Social Security Act
9 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of
10 the EAJA.

11 | DATE: May 16, 2025 Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLFING, INC., CPC

/s/ *Marc V. Kalagian*

BY:

Marc V. Kalagian
Attorney for plaintiff
JOSE N. AVILA

DATE: May 16, 2025

SIGAL CHATTAH
United States Attorney

/s/ Jeffrey E. Staples

JEFFREY E. STAPLES
Special Assistant United States Attorney
Attorneys for Defendant
FRANK BISIGNANO, Commissioner of Social
Security (Per e-mail authorization)

ORDER

23 Approved and so ordered:

DATE: May 19, 2025

Elayna J. Youchah
THE HONORABLE ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE